



The State Bar *of California*

Admissions and Discipline System Training

January 2018



The State Bar *of California*

Office of Admissions

Amy Carmen Nuñez, Interim Director



Entities Overseeing the Office of Admissions' Work

Supreme Court

Legislature

Board of Trustees

Committee of Bar
Examiners



Committee of Bar Examiners

- 19 members, 4-year terms
 - 10 lawyers appointed by Supreme Court
 - 9 public (non-attorney) members
- Six subcommittees
 - Educational Standards
 - Examinations
 - Operations & Management
 - Moral Character
 - Law School Council
 - Rules Advisory Committee



The State Bar *of California*

Examination Development and Grading of Exams

Lisa Cummins, Program Manager III

Christina Doell, Program Manager I



California Bar Exam

Day 1

- 5 one-hour essay questions
- 90-minute performance test

Day 2

- 200 multiple-choice item Multistate Bar Examination



Scope of Subjects Tested on the Bar Exam

- | | |
|-------------------------------|--------------------------------|
| 1. Business Associations | 7. Evidence |
| 2. Civil Procedure | 8. Professional Responsibility |
| 3. Community Property | 9. Real Property |
| 4. Constitutional Law | 10. Remedies |
| 5. Contracts | 11. Torts |
| 6. Criminal Law and Procedure | 12. Trusts |
| | 13. Wills and Succession |



Bar Exam Essay Question and Performance Test Development

Question
and PT
Drafting

Question
and PT
Editing

Question
and PT
Pretesting

Question
and PT
Banking



Bar Examination Grading Process and Practices

- Anonymity of Applicants: use of code numbers
- Logistics: return of materials from test centers and assembly of answer books
- Graders: active California attorneys in the greater San Francisco Bay Area
- Pre-Grading Research
- Calibration: three calibration meetings
- Grading: three phases (first read, second read, resolution)



Factors in the Length of Time for Grading the Bar Exam

- Large number of applicants
- Volume of answer books to print and assemble
- In order to ensure calibration of graders, limit number of graders per grading group to 12
- Three phases of grading



Testing Accommodations Request Process

Petition Filed

- Applicant request
- Appropriate documentation
- Verifications

Decision Made

- Grant
- Deny
- Modified grant

Applicant Appeals

- Staff / Committee
- Grant
- Deny
- Modified grant



Testing Accommodations for Applicants with Disabilities

Examples:

- Extra time during two days
- Extra time over extended days
- Testing in a private or semi-private room
- Permission to dictate to a typist
- Special versions of the examination questions
 - e.g., Braille or large print, audio recording, on CD to use with screen reader or speech-recognition software



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Eligibility and Examination Administration

Greg Shin, Program Manager III



Legal Education Qualification

- 3 years of law study and JD:
 - ABA-Approved and California-Accredited Law Schools
- 4 years of law study and First-Year Exam:
 - Unaccredited law schools
 - Law office study
- Foreign-educated (not admitted)



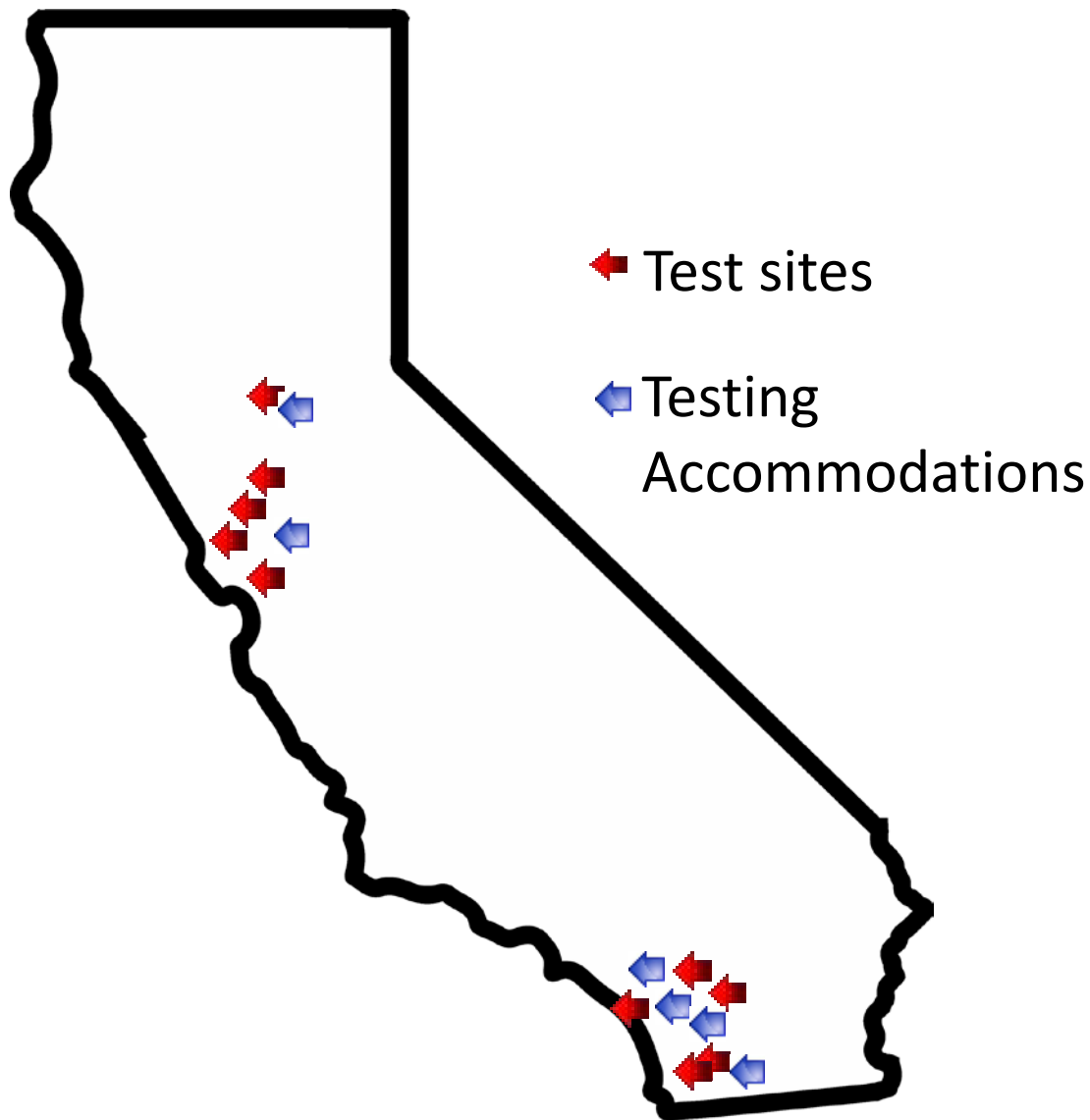
Bar Exam Administration

Feb 2017

- 4,892 applicants
- 424 applicants granted testing accommodations

July 2017

- 9,183 applicants
- 598 applicants granted testing accommodations





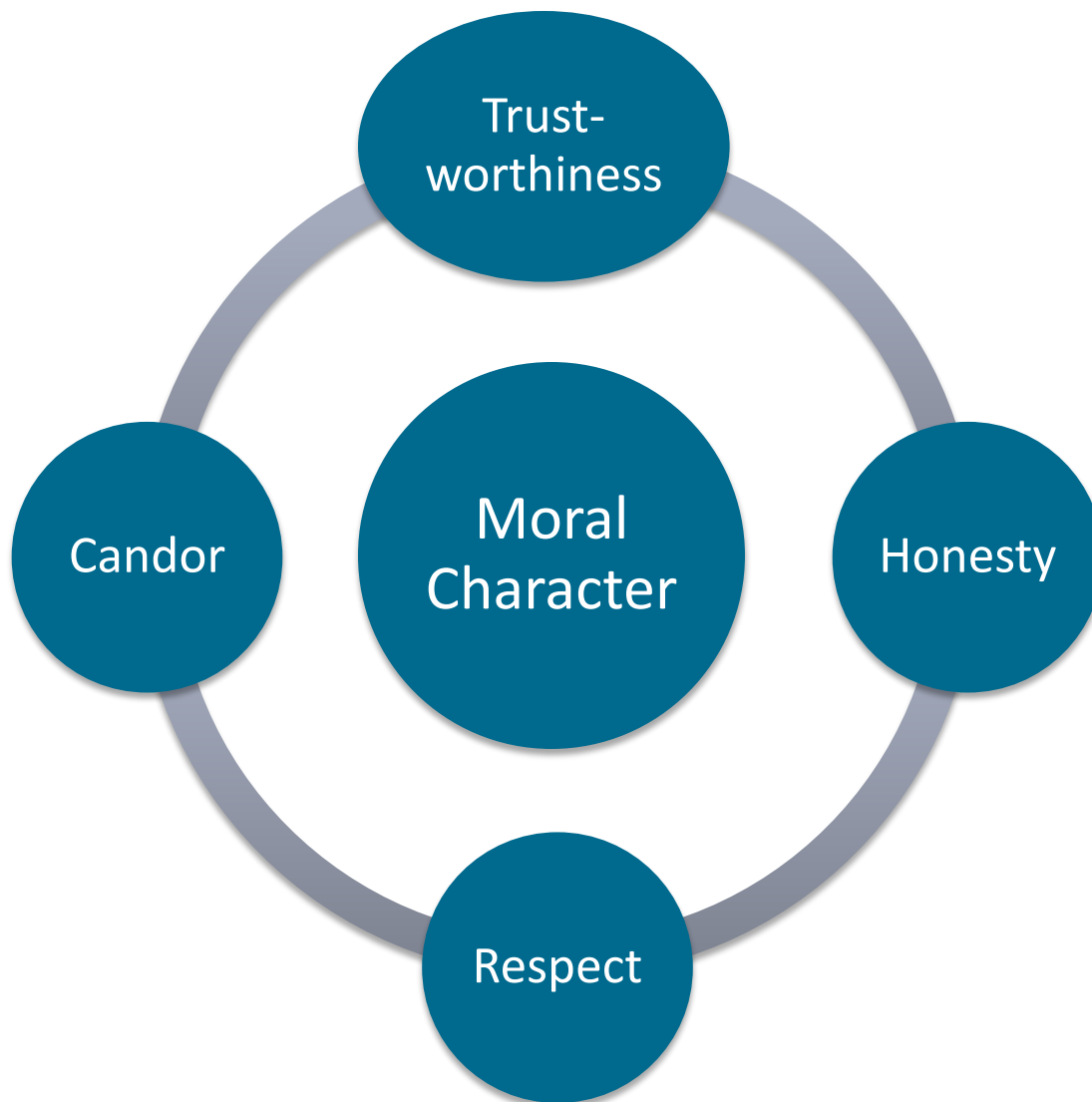
The State Bar *of California*

Moral Character Determination

Mark Torres-Gil, Program Manager

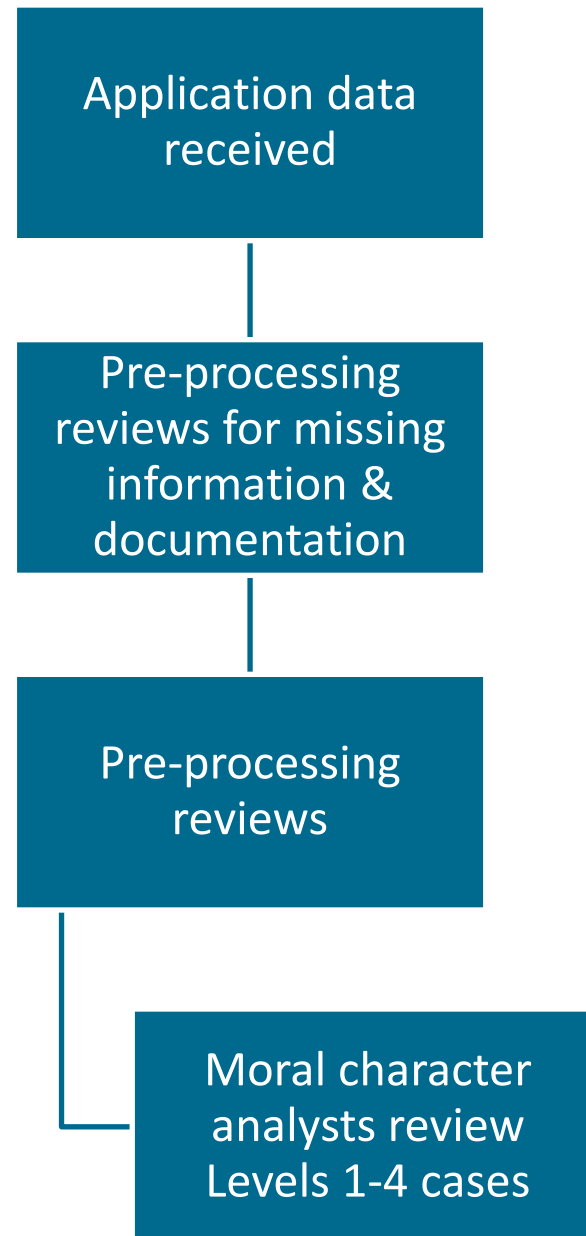


Moral Character Determinations





Processing Moral Character Applications





Application Levels (Examples)

Level One

- Juvenile misdemeanors
- Vehicle code infractions
- Bankruptcy – no obj.
- Academic probation

Level Two

- Misdemeanors
- FTA
- Job termination
- Minor college infractions
- Complaint against attorney: dismissed

Level Three

- DUIs
- Military discipline: moral turpitude
- Other professional discipline
- Fraud accusations
- Major undergraduate discipline

Level Four

- Felony conviction
- Drug sales
- 2 or more DUIs within 5 years
- Law school honor code violation
- Court sanction



Moral Character Analyst Review

Level 1/Minor Level 2

- Clearable

Serious Levels 2/3

- Further investigation
- Letters to applicants, others
- Analyst clears Level 2 or refers to Section Chief
- Section Chief may refer to Program Manager

Serious Levels 3/4

- Further investigation
- Files referred to Program Manager
- Clearable by Program Manager
- Referred for informal conference



CBE Decisions After Informal Conference

Positive determination

Re-refer for more
investigation

Abeyance

Negative determination



CBE Decisions After Informal Conference

Path 1: Positive
determination



Cleared for 3 years

Path 2: Re-refer for more
investigation

Collect more information,
evaluation



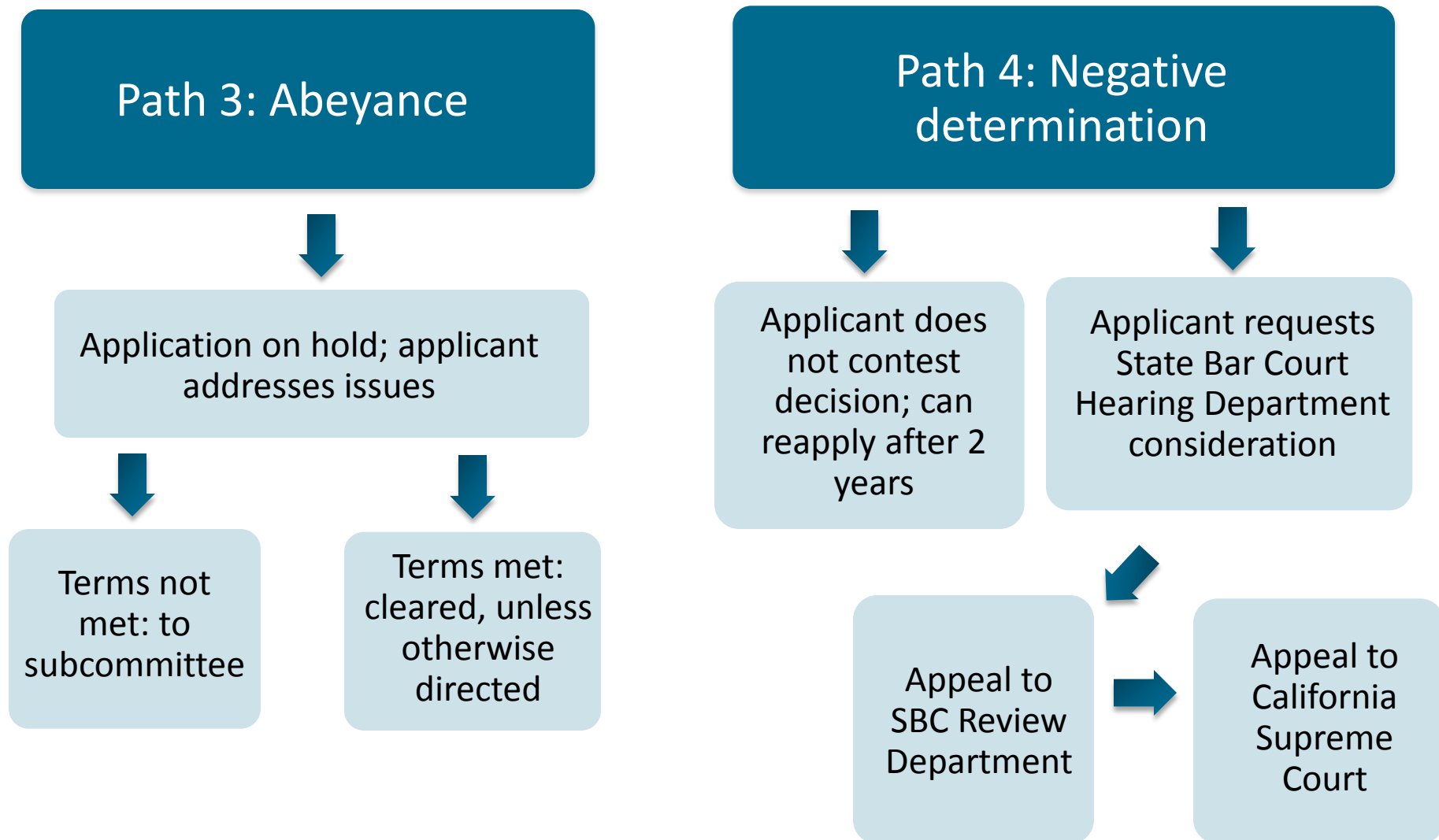
Back to subcommittee



Trial Counsel review



CBE Decisions After Informal Conference





Moral Character Appeals (De Novo Review)





The State Bar *of California*

Legal Specialization

Natalie Leonard, Program Manager III



Legal Specialists

- State Bar certifies per direction of California Supreme Court
- CRC 9.35 – Certified Legal Specialist
 - (b) State Bar Legal Specialization Program
 - The State Bar must establish and administer a program for certifying legal specialists and may establish a program for certifying entities that certify legal specialists under rules adopted by the Board of [Trustees] of the State Bar.



Key Goals of Legal Specialization Program

- Public Protection
 - Give consumers an independent means to verify an attorney's qualifications
- Attorney Competence
 - Encourage lifelong attorney competence
 - Prevent discipline issues
 - Encourage practice civility



Legal Specialty Areas

The CBLS certifies specialists in 11 areas of law

- Admiralty & Maritime
- Appellate
- Bankruptcy
- Criminal
- Estate Planning, Trust & Probate
- Family
- Franchise & Distribution
- Immigration & Nationality
- Legal Malpractice
- Taxation
- Workers' Compensation



Certified Specialists by Specialty

Specialty	Total
Admiralty & Maritime	38
Appellate	306
Bankruptcy	165
Criminal	348
Estate Planning, Trust & Probate	1,016
Family	1,339
Franchise & Distribution	53
Immigration & Nationality	210
Legal Malpractice	96
Taxation	319
Workers' Compensation	1,026
Total	4,916

**as of January 1, 2018*



Governance

Board of Trustees

- Appoints members
- Approves rules
- Receives reports from committee

California Board of Legal Specialization

- Administers certification requirements
- Certifies and recertifies qualified applicants
- Regulates educational providers



Certification Requirements for California Attorneys





Legal Specialization Program Funding

- Program is self-funded and self-supporting
 - Fees are collected from applicants, specialists, education providers and accredited organizations



The State Bar *of California*

Law School Regulation

George Leal, Program Manager II



Law Schools Comparison by State

California (ABA, Accredited, and Registered Law Schools)	56
New York (ABA)	15
Florida (ABA)	12
Illinois (ABA)	9
Texas (ABA)	9



California Law Schools

By the numbers

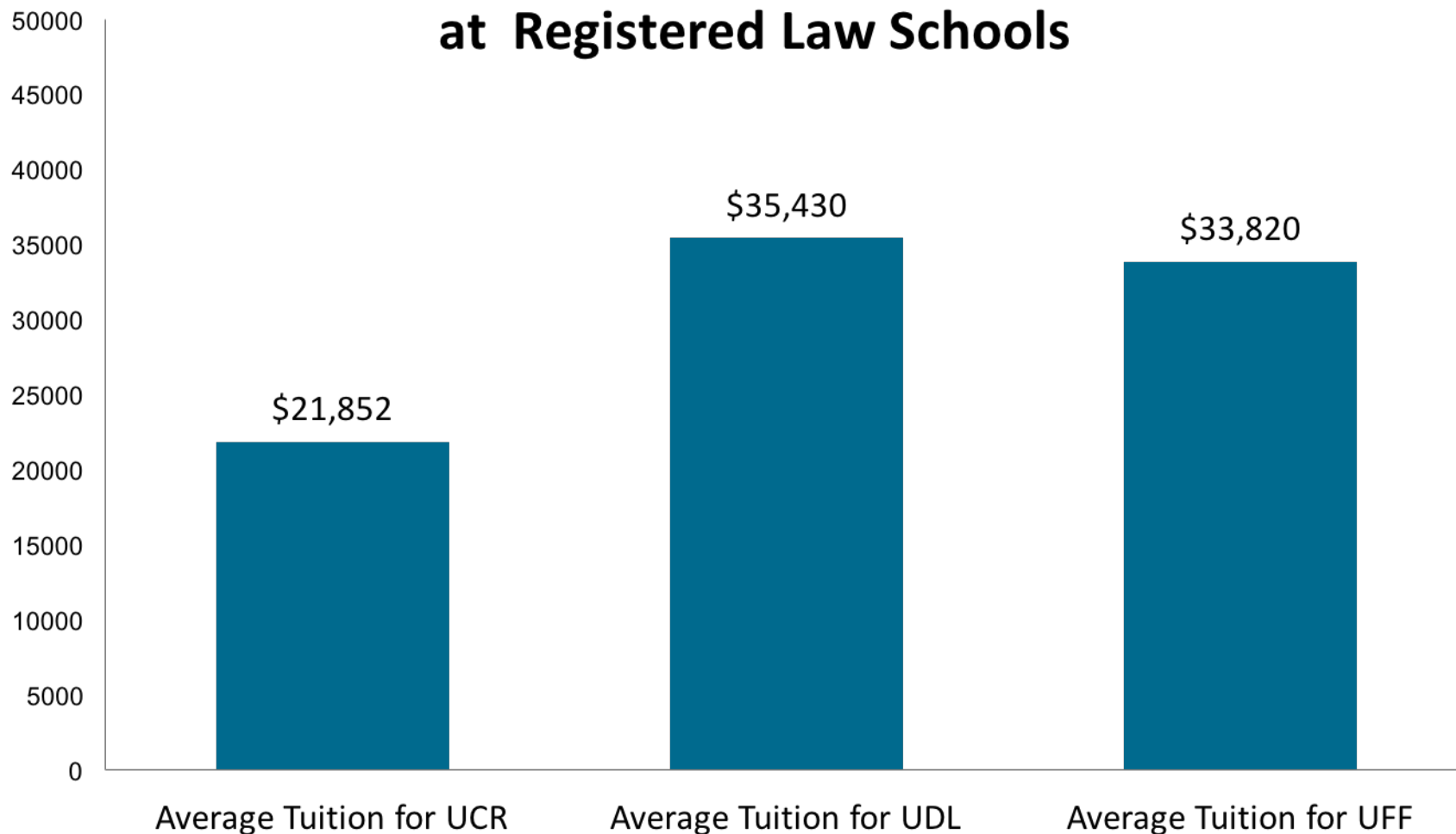
- 21 ABA-approved law schools
- 15 California-accredited law schools
- 20 unaccredited

Tuition averages to earn a J.D. degree

- CA ABA-approved schools: \$148,673
- CALS: \$65,709
- Unaccredited (distance learning, fixed facility, and correspondence): \$30,000

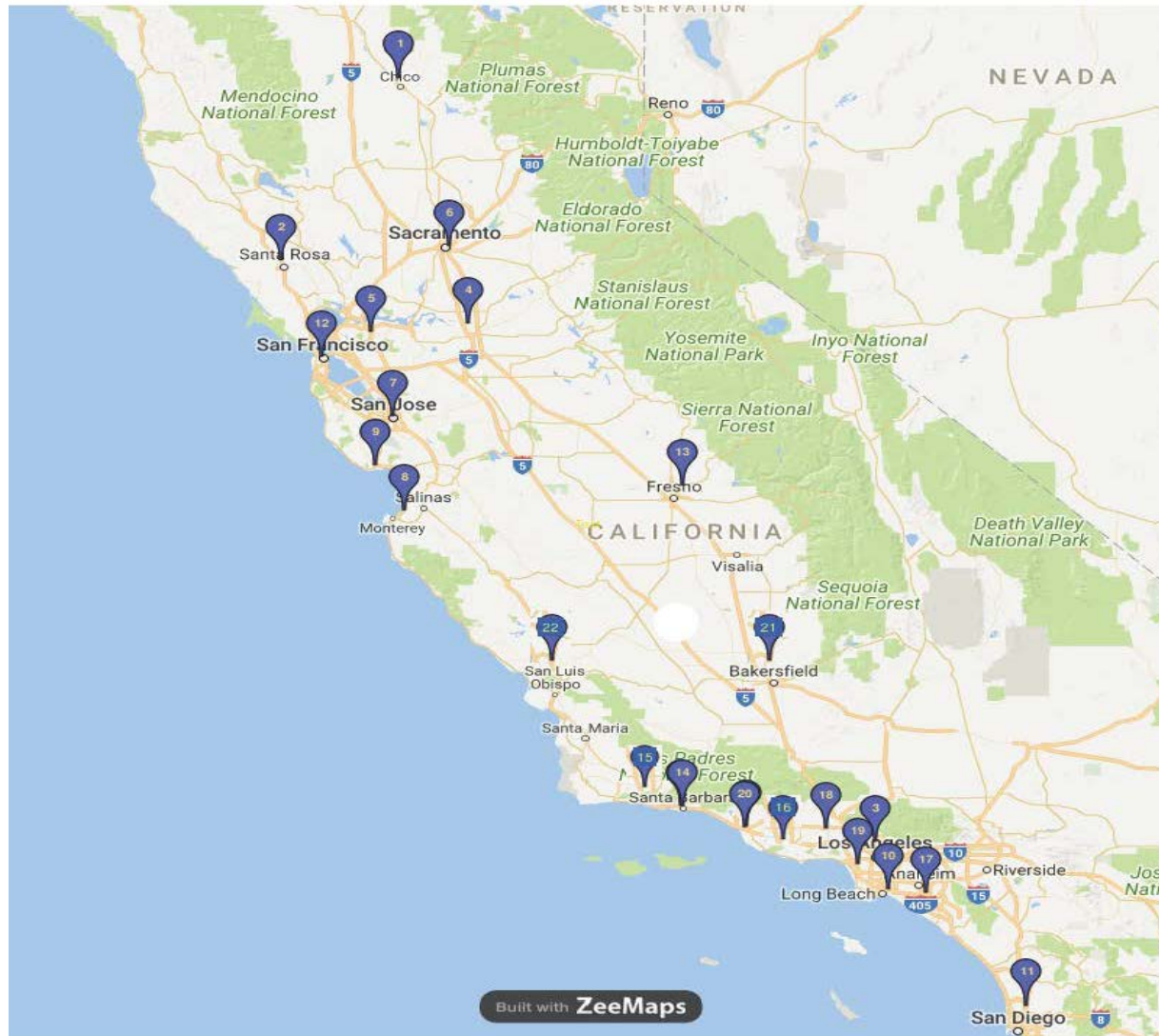


Average Total 2017 Tuition for J.D. Program, at Registered Law Schools



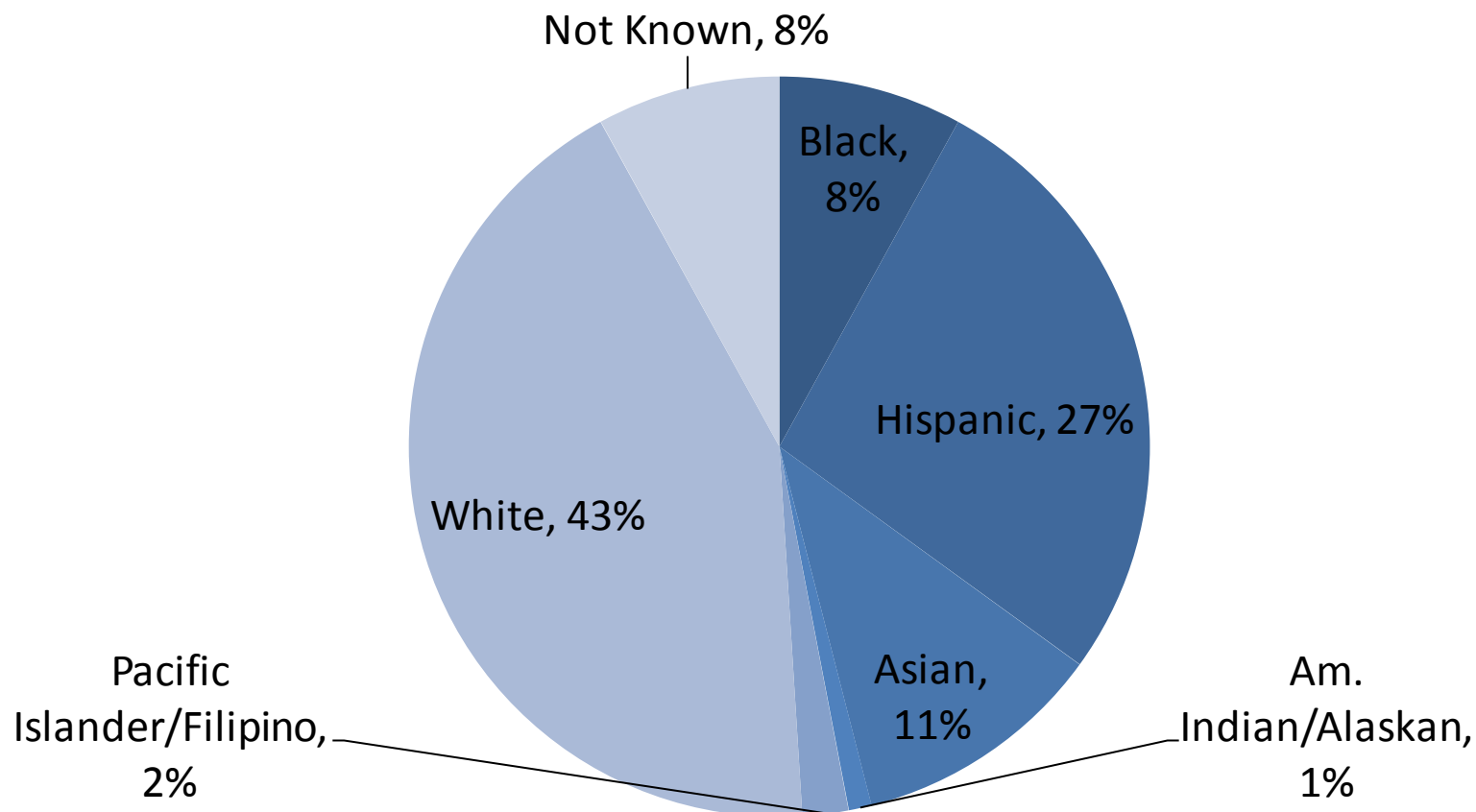


Locations of All CALS, (Including Branch Campuses)



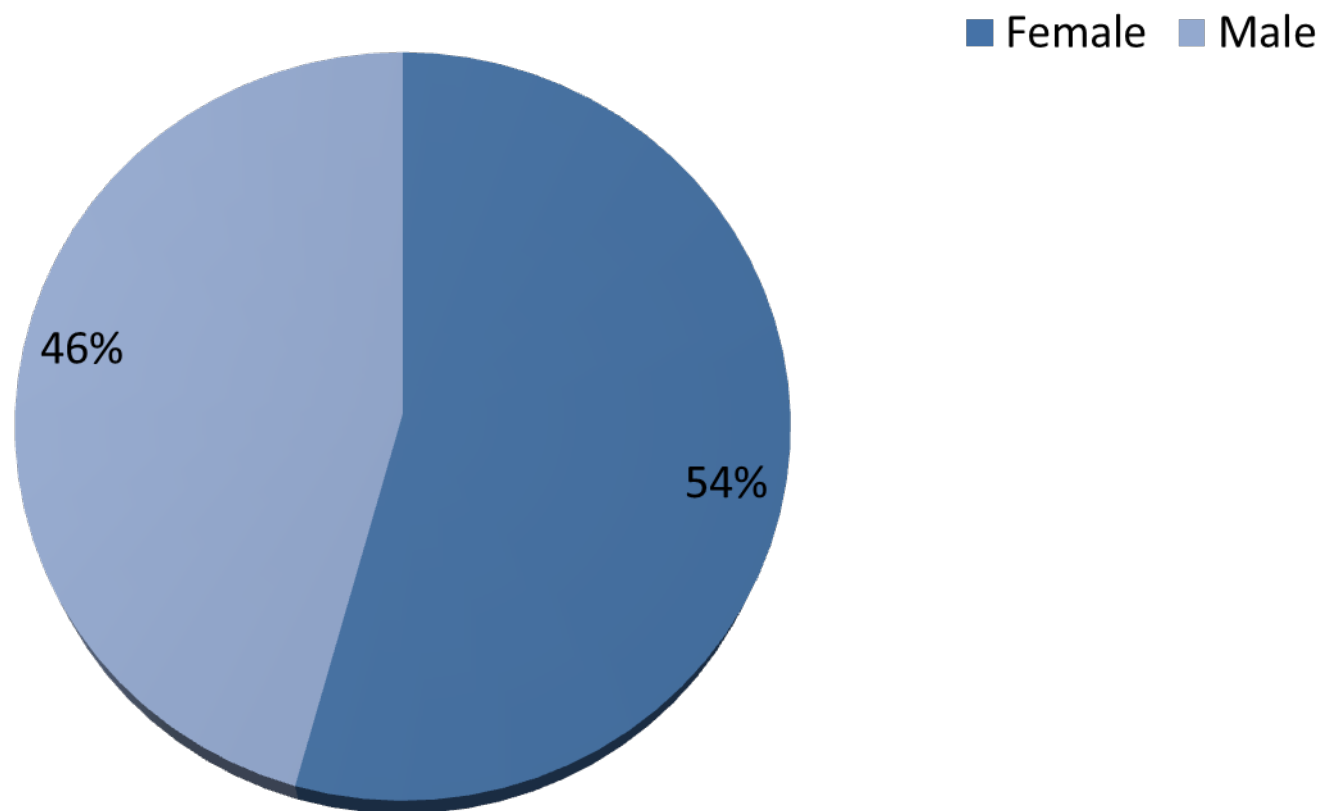


Student Ethnicity for California Accredited Law Schools - 2017





Gender Comparison of Enrolled Students for CALS 2017



Figures taken from 2017 Annual Reports



The State Bar *of California*

Office of Chief Trial Counsel

Steve Moawad, Chief Trial Counsel



The State Bar *of California*

Expedited Cases

Anthony Garcia, Supervising Attorney



The State Bar *of California*

In the Matter of Jane L. Schooler

Kimberly Anderson, Senior Trial Counsel

Joy Nunley, Investigator



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Conviction Monitoring & Prosecution

Supervising Attorney, Susan Kagan



The State Bar *of California*

In the Matter of Maximilian J.B. Hopkins

Susan Kagan, Supervising Attorney
Thomas Mills, Investigator



The State Bar of California

Assumption of Jurisdiction

Jennifer Kishimizu Pinney, Deputy Trial Counsel
Rosemary Almaguer, Investigator



Business and Professions Code Section 6190

- Authorizes a Court to assume jurisdiction over a law practice;
- When for any reason (including physical or mental infirmity);
- An attorney has become incapable of devoting the time and attention necessary to protect the interests of clients.



COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
COURT SERVICES DIVISION

NOTICE TO VACATE

CASE NUMBER: 17 P02713

TO: Judgment debtor, members of the judgment debtor's household, and any occupants residing with the judgment debtor.

By virtue of a *Writ of Possession of Real Property*, a copy of which is attached,
YOU ARE ORDERED TO VACATE THE PREMISES DESCRIBED IN THE WRIT NOT LATER
THAN: 9/26, 2017.

SHERIFF'S BRANCH (Name, Address and Telephone Number)

☐

SHERIFF DEPT. - BURBANK
300 E. Olive Ave., #104
Burbank CA 91502
818-557-3490

☐

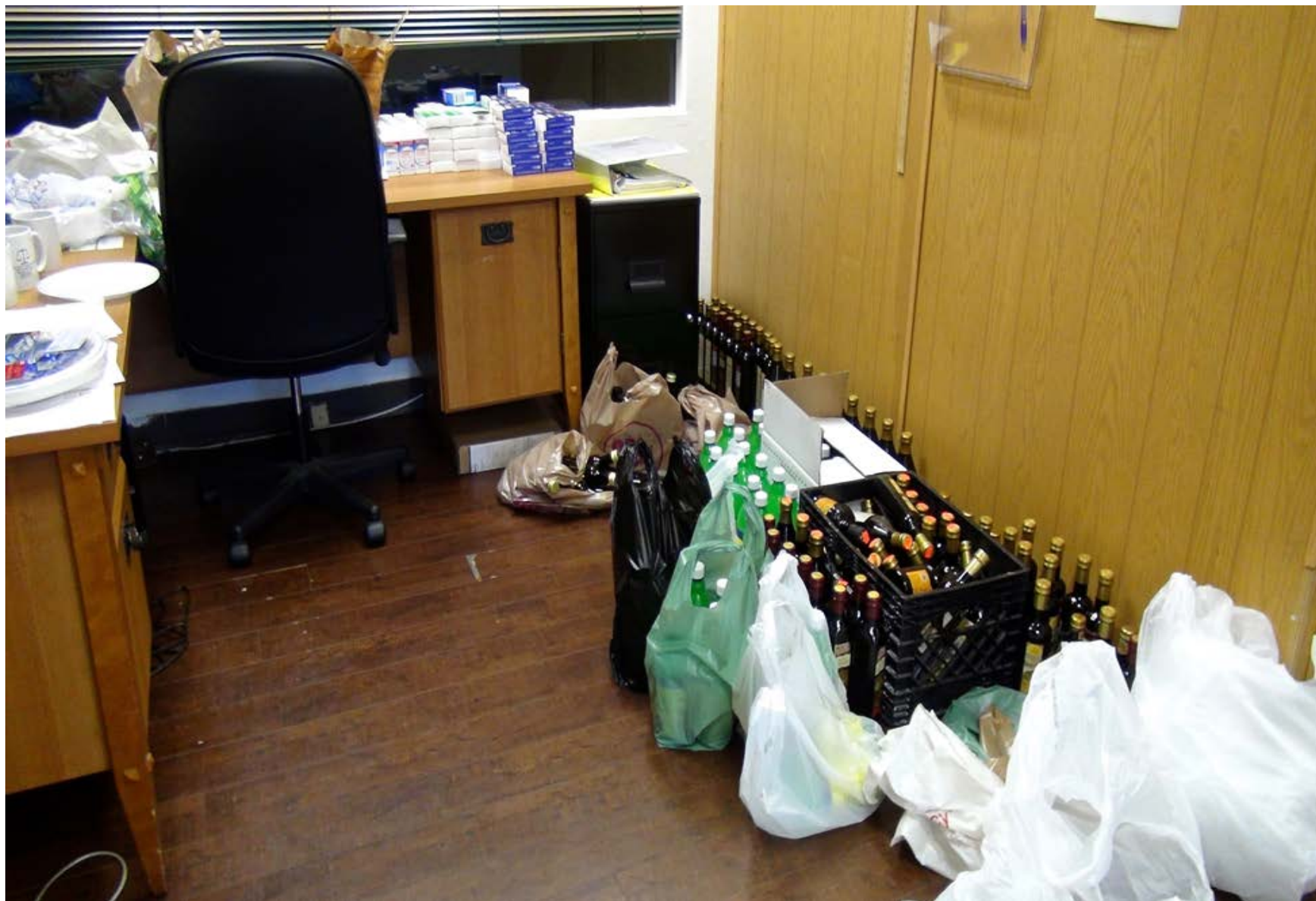
JIM McDONNELL, SHERIFF

By: [Signature]

Date: 9/26/17







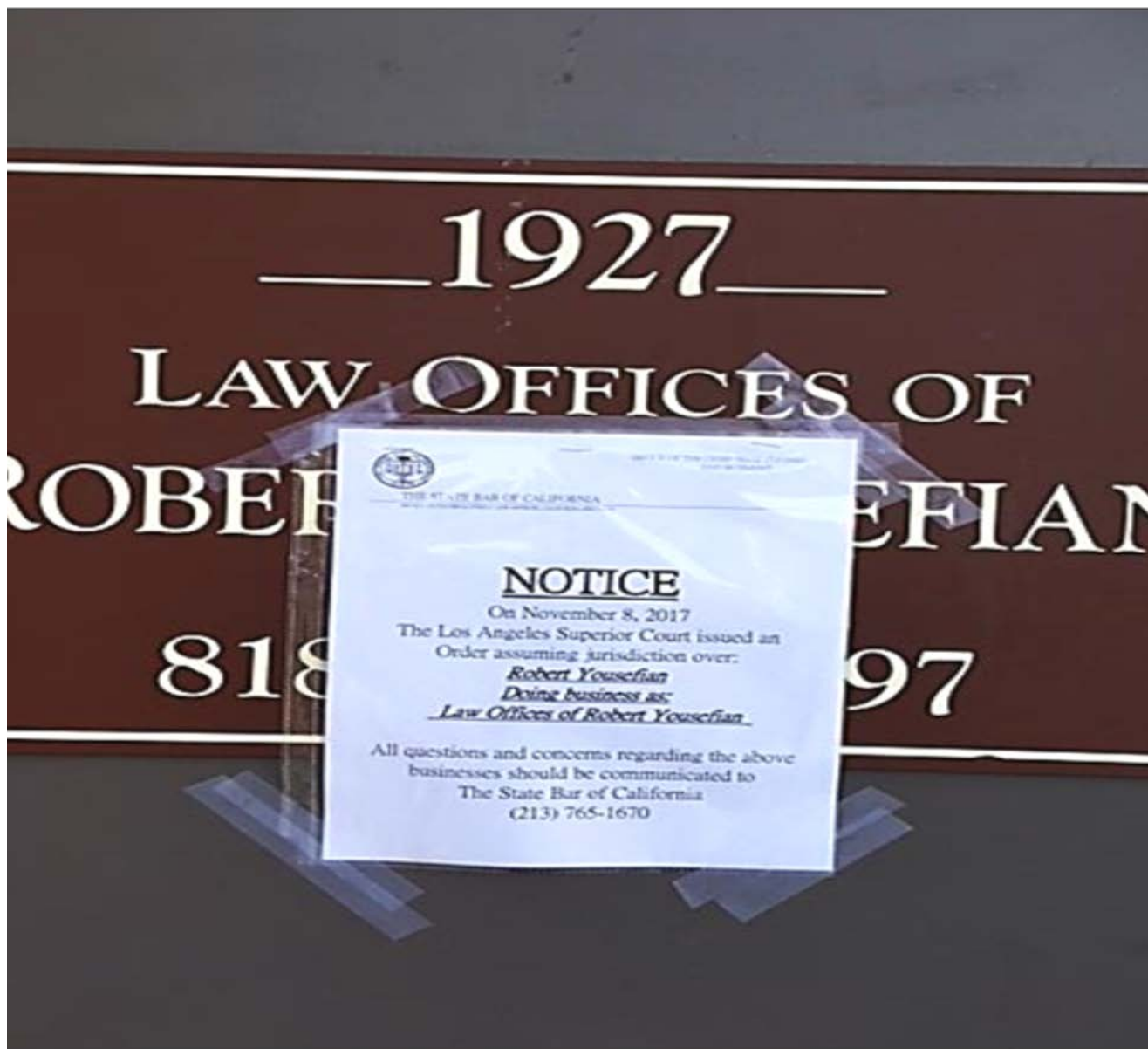






Arcada	5699	Cleint went back to Dr. Yani
Romik	5745	Demand Mailed .wait for offer. Make sure to reimburse med pay
Raffik	5755	get all meds.
Allen	5685	get meds
Maro	5732	get meds
Karo	5702	get meds/demand
Armond	5704	PD only - arbitration in progress
Norik	5683	do demand
Juliet	5627	get meds
Neline	5763	demand mailed. Wait for offer
Rosa	5695	get meds
Alisa	5730	final offer is in. discuss with cleint. Called a few times.
Hamid	5741	demand mailed
Arvin	5571	have RY sign checks
Vahik	5675	demand mailed
Armenush	5511	get all meds
Edmond	5672	reimburse med pay, do disbursment
Najla	5534	meds (medical lien)
Valentine	5691	drop?
Aida	5767	demand (cleint consideres switching attorneis)
Tara	5672	client treating for broken nose. Get meds
Sevan	5783	demand mailed out
Solayman	5776	meds (hospital lien)
Tagoush	5766	client consideres small claims
Alina	5663	arbitration /drop?
Kelvin		Clients are supposed to send police report info. Get defendants insurance info and open claim Get in touch with client, get in touch with oppposing counsel ans settle this case
Sean		Do disbursment
Emma		Do husbands disbursemtn. He doesn't want us to take a cut. Give it a bit time and ask RY what to do
Joseph		Do disbursment For him and his wife seda hajimardoss - the chiro wanted her check made out to her name, prepared in the check folder. Have RY sign, copy and mail out ASAP
Edvart		Do disbursment.
Aditiya		Call CMS (Medical) after 04/25/2017 and make sure to get the conditional payment amount (around 600), submit that to opposing couسل. Get settlement check and do disbursmwent
Kristina		Per RY orders; I didn't send any check to doctors. Make sure dr. karoline accepts 1K as payment, then do disbursment for remaining doctors. Attorney fees and costs were paid. Whatever is left will go to client
Tigran		







The State Bar *of California*

Assumption of Jurisdiction Over the Unauthorized Practice of Law

Manuel Jimenez, Supervising Attorney
Elizabeth Stine, Senior Trial Counsel



Addressing the Unauthorized Practice of Law

- Dedicated UPL unit in OCTC
- Online UPL complaint form in English, Spanish, Chinese, Korean, Vietnamese and Russian
- Multilingual complaint line
- Refer cases to law enforcement for prosecution
- Coordination with law enforcement
- Assumption of jurisdiction



Unauthorized Practice of Law Investigation

- Evidence Required
 - Holding themselves out as an attorney
 - Act of practicing law
- Challenges
 - Getting client-victims to come forward
 - No evidence of recent or ongoing UPL
 - Proving that a legal service was rendered
 - Proving that no licensed attorney was involved









Servicio Latino

Eddie R. Bonilla

Attorney Services

1625 W. Olympic Blvd., Suite MEZZ 107

Los Angeles, CA 90015

Tel: (213) [REDACTED] Fax: [REDACTED]



Shutting Down a UPL Operation

- Preparation for the shut-down
 - Operation plan
- Day of ex-parte hearing and shut-down
 - Execute orders of the court
 - Safeguard client files and property
- Work continues well after the shut-down
 - Distribution of client files and property
 - Freezing accounts and analyzing bank records









Additional Actions Against Non-Attorneys for UPL

- Refer UPL complaint to law enforcement
 - UPL by a non-attorney is a misdemeanor
(Bus. & Prof. Code §6126(a))
- Issue a cease-and-desist notice from the State Bar
- Negotiate voluntary removal of illegal advertisements
- Negotiate voluntary cessation of illegal acts



The State Bar *of California*

Public Outreach, Agency Cooperation

Manuel Jimenez, Supervising Attorney



The State Bar *of California*

After the Assumption of an Office Pursuant to Sections 6180 & 6190

Robert Mayson, Senior Administrative Supervisor



The State Bar *of California*

Appellate Cases: In the Matter of Mark Daniel Wenzel

Brandon Tady, Senior Trial Counsel



The State Bar *of California*

Complaint Review Unit

Carissa Andresen, Attorney



What is a Second-Look?

- Review/re-examination of closed cases
 - Upon request of complainant
- Check and balance on investigatory process
- Provides a simpler process to obtain review



Beginnings of the Complaint Review Unit

- Housed in the Office of General Counsel
 - State Auditor's Report 2015-030
- Rule of Procedure 2603
 - Authority for review delegated to OGC
 - May make recommendations to re-open
 - OCTC retains authority over re-opening



The Review

- Standard of Review
 - Significant New Evidence or Good Cause
- Dispositions
 - Remains closed
 - Recommendation to reopen
 - Denied as untimely
- *Walker* Petitions
 - *In re Walker* (1948) 32 Cal.2d 488
 - None granted since 2015



The State Bar *of California*

State Bar Court

Judge Catherine Purcell,
Presiding Judge

Antonia Darling,
Chief Court Counsel/Chief Administrative Officer



Court Performance Standards

1. Access to Justice
2. Expedition and Timeliness
3. Equality, Fairness, and Integrity
4. Independence and Accountability
5. Public Trust and Confidence

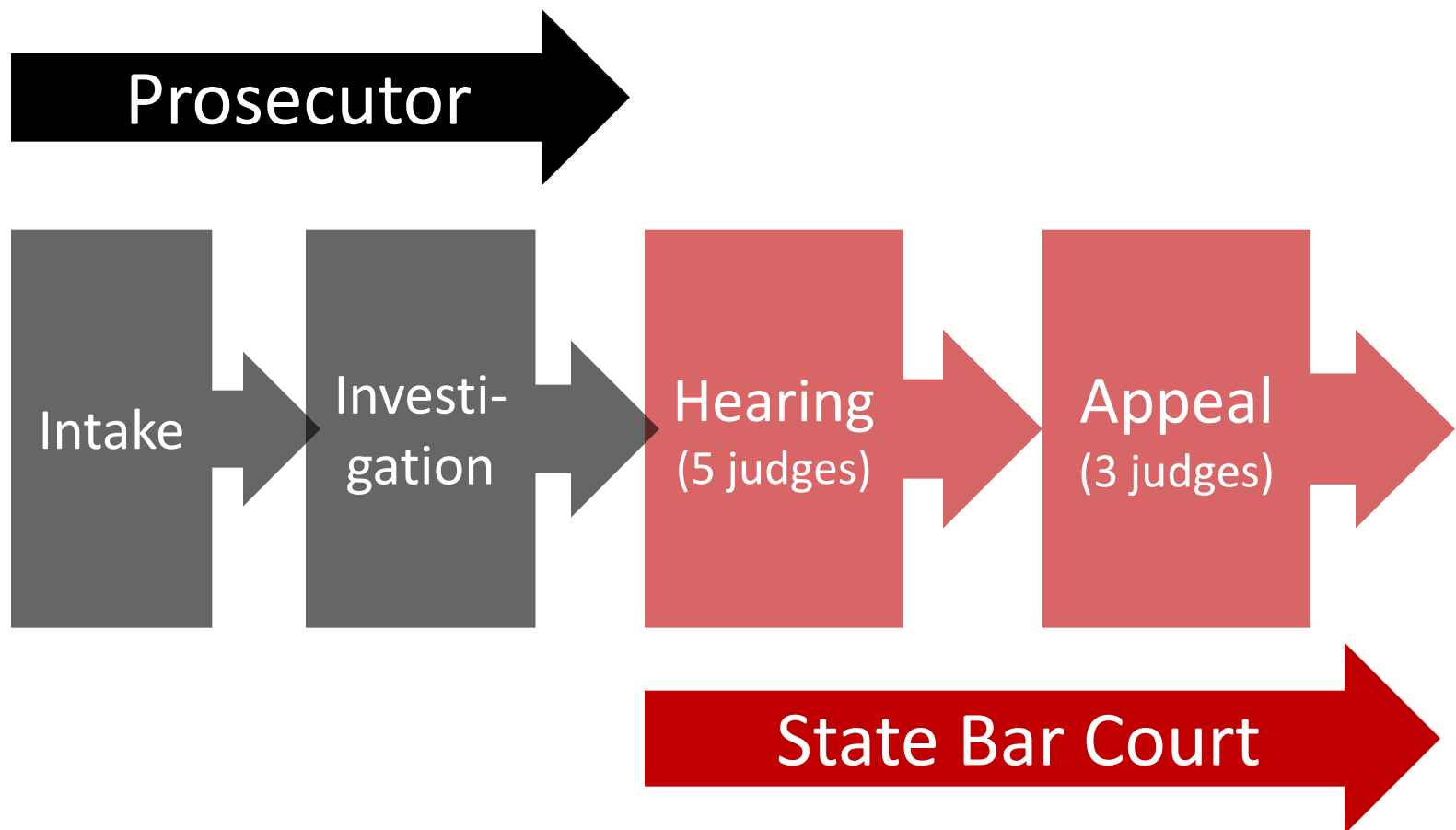


Judicial Independence Promotes Fairness

- **California Rules of Court**
 - Rule 9.11(d) (judicial discipline)
- **State Bar Rules of Procedure**
 - Rule 5.46 (rules of judicial ethics)
 - Rule 5.104 (clear and convincing standard of proof for culpability, aggravation, and mitigation)



Life Cycle of a Complaint





State Bar Court

Hearing Department

- 3 Trial judges in Los Angeles
- 2 Trial judges in San Francisco
- 1 Judge Pro Tem (Chief Assistant Court Counsel)

Review Department

- Presiding Judge
- 2 Appellate judges
- 1 Judge Pro Tem (pro bono)

33 Non-Judicial Employees

- Court Counsel, Case Administrators, Effectuations Staff, Data Analyst, Legal Secretaries, Administrative Assistants, and Court Managers



Appointment of Judges

Presiding & Review Judges

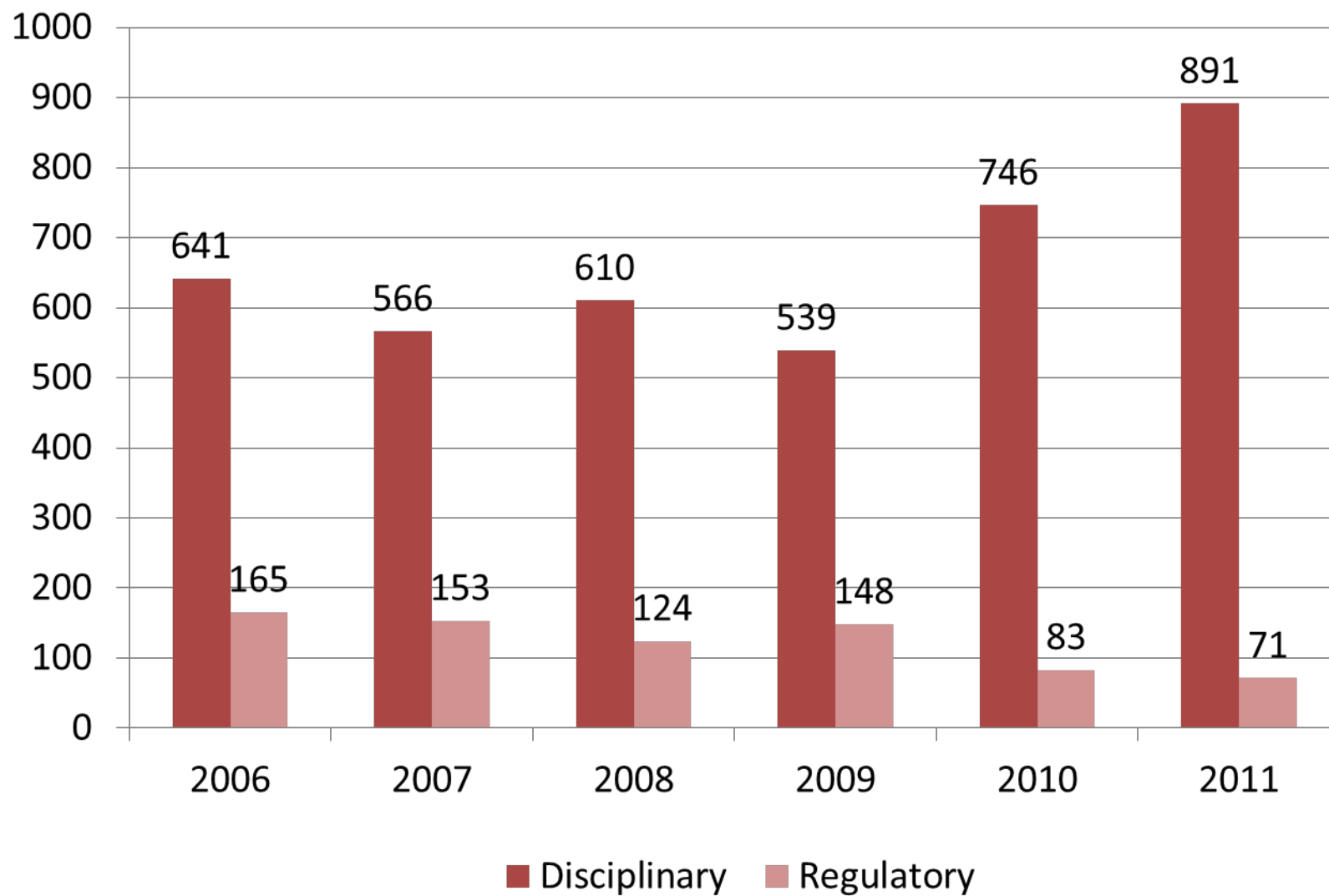
- All appointed by Supreme Court

Hearing Judges

- 2 appointed by Supreme Court
- 1 appointed by Speaker of the Assembly
- 1 appointed by Senate Committee on Rules
- 1 appointed by Governor

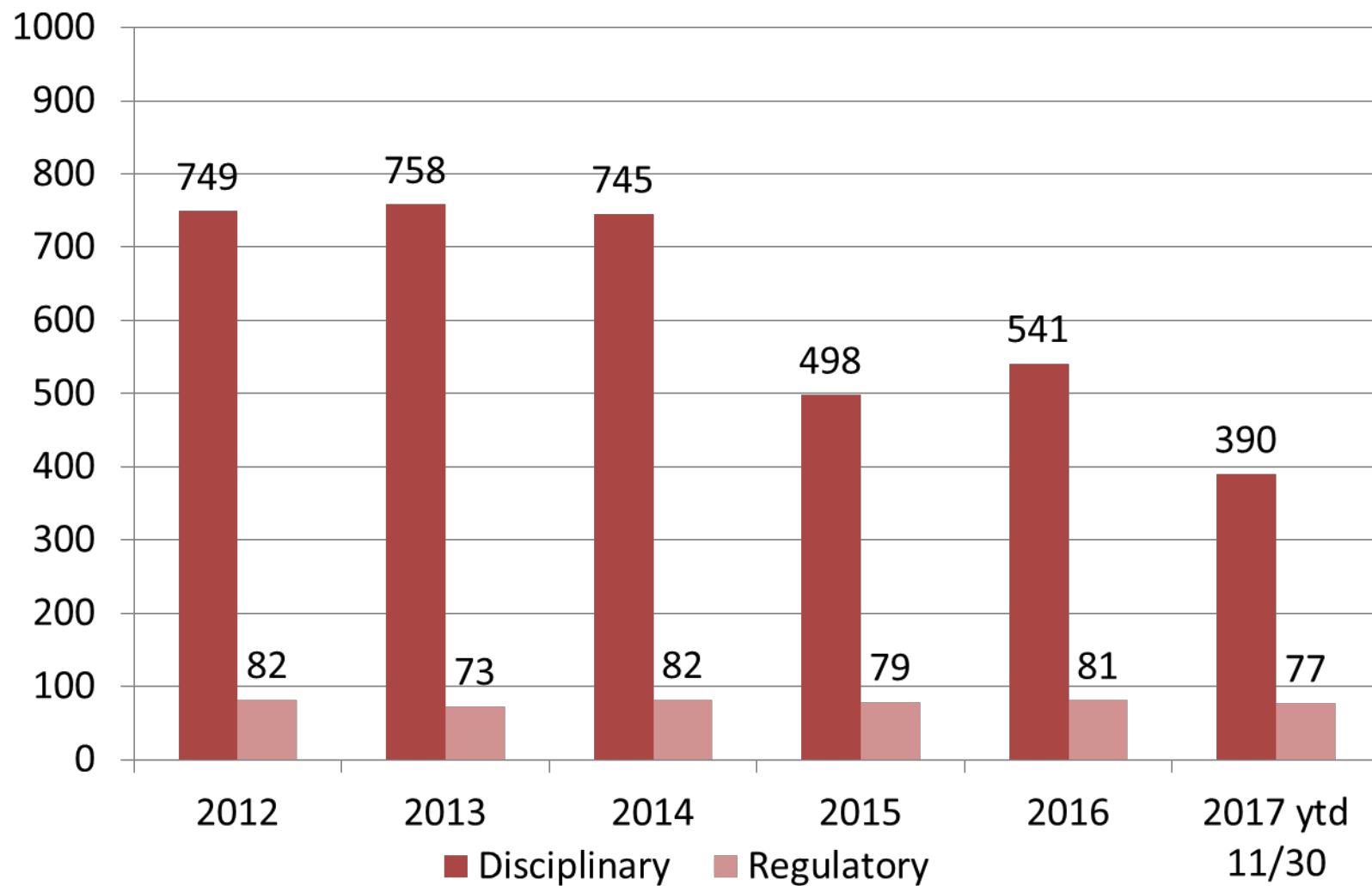


Cases Filed by Year



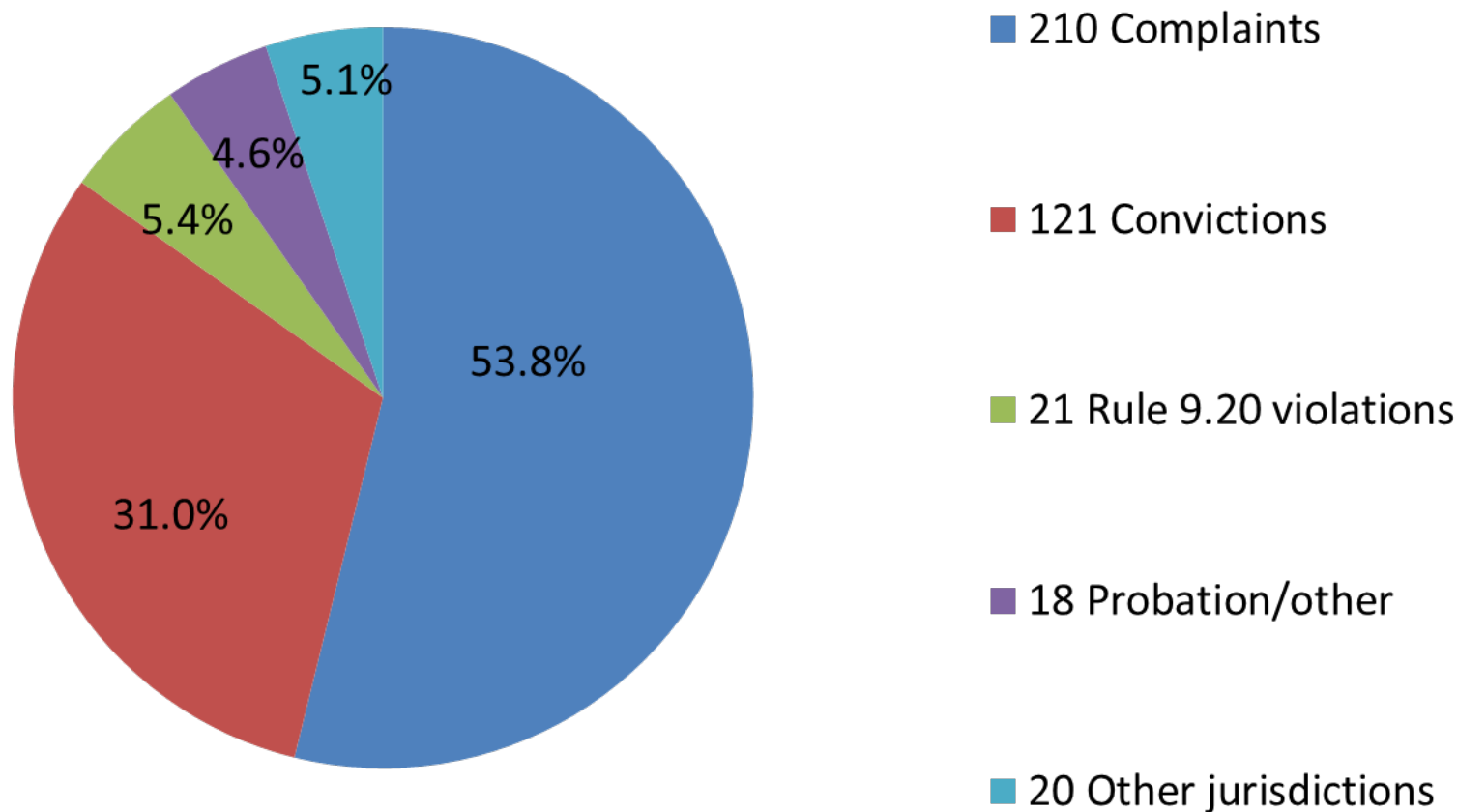


Cases Filed by Year





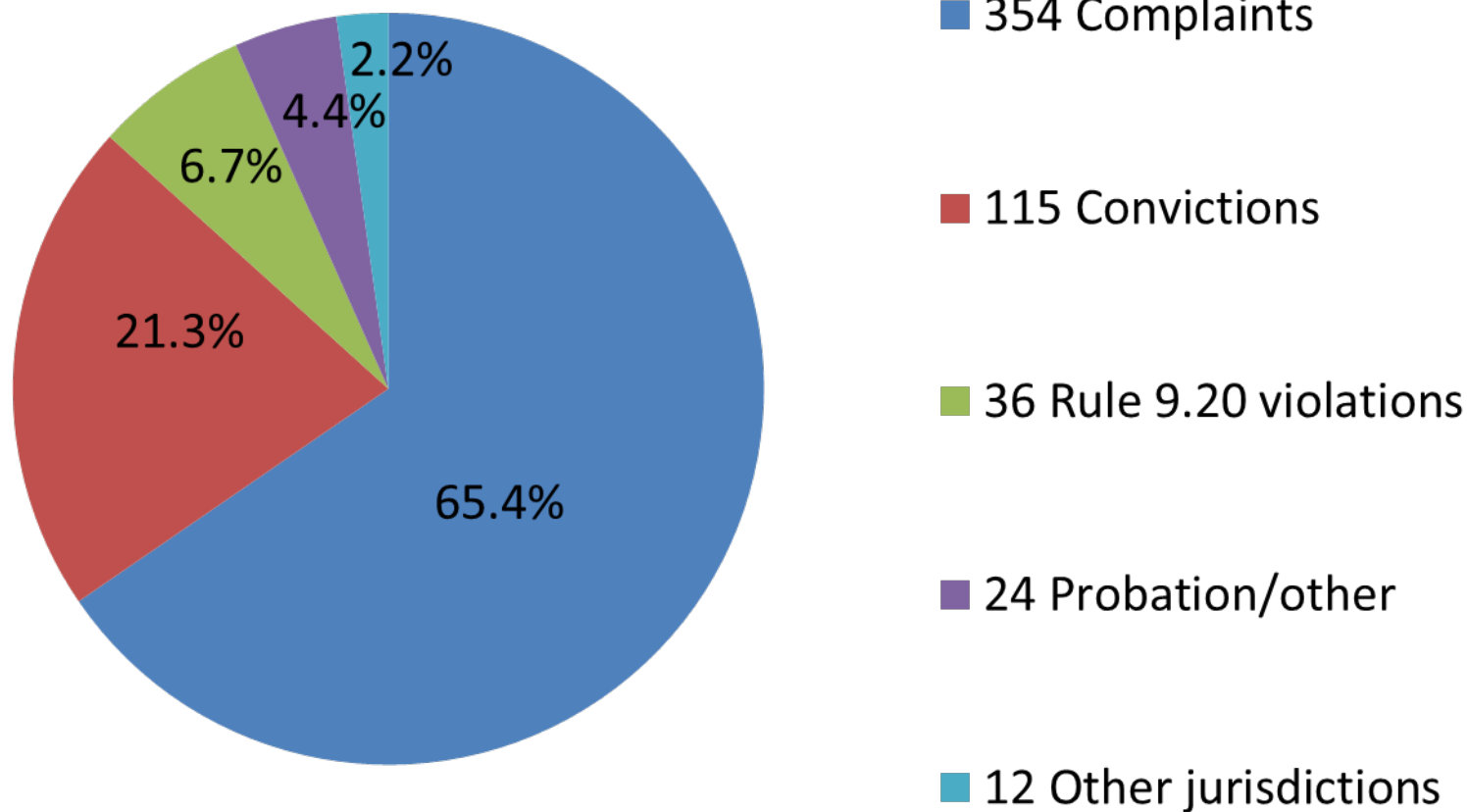
2017: 390 Disciplinary Cases



Year to date, as of Nov. 30, 2017

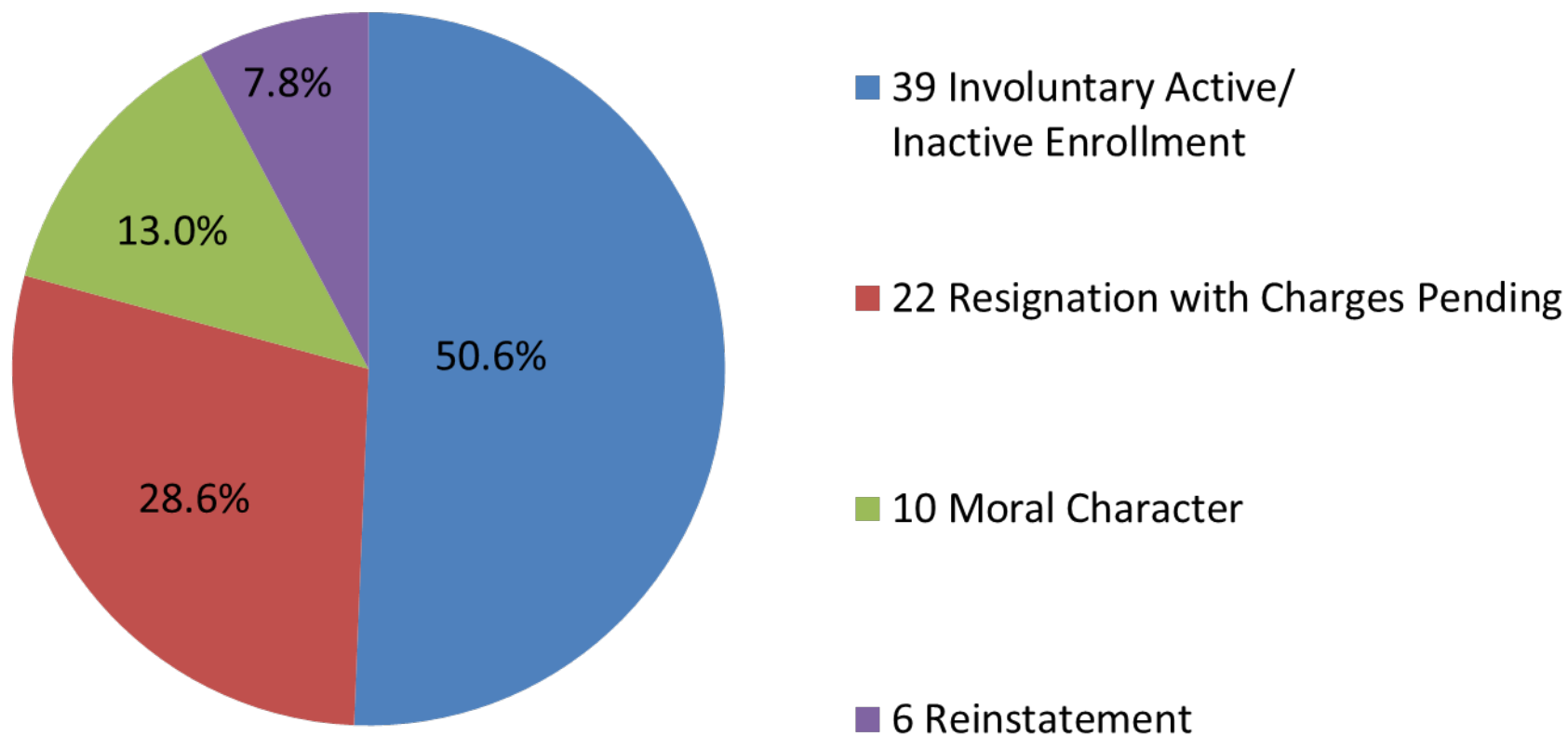


2016: 541 Disciplinary Cases





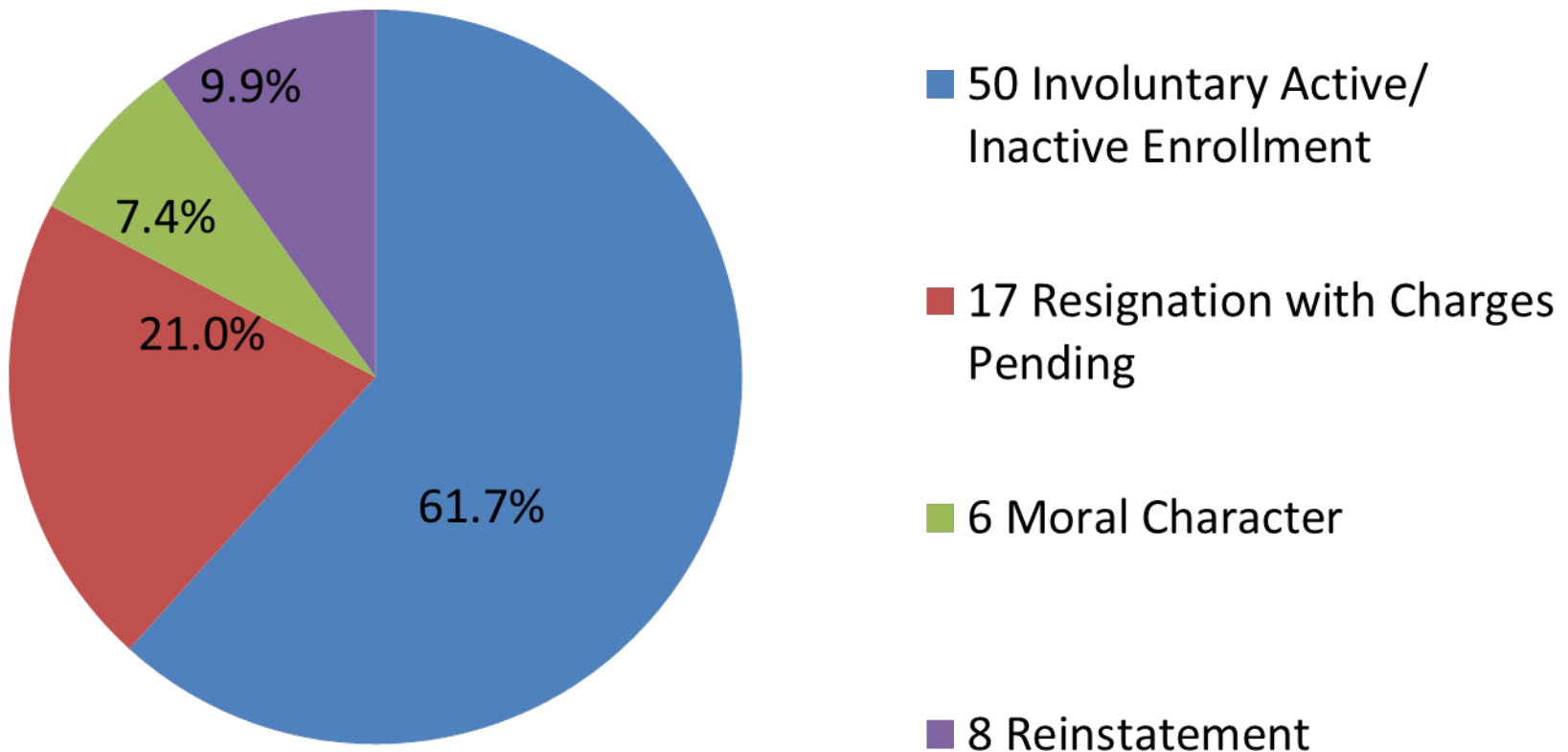
2017: 77 Regulatory Cases



As of Nov. 30, 2017



2016: 81 Regulatory Cases





Discipline Guidelines

- Standards (Task Force)
 - Mitigation
 - Aggravation
- Case Law
- Supreme Court Review
 - 3 Supreme Court decisions since 2005
 1. Re Standards
 2. Re Moral Character Case
 3. Re Criminal Conviction Case



Discipline Levels by Percentage %

	2012	2013	2014	2015	2016	2017 ytd 11/30
Disbarments	30	35	29	30	37	37
Actual Suspensions	38	35	40	42	33	30
Stayed Suspensions	9	6	7	7	8	6
Reprovals	12	9	10	10	9	11
Dismissals	7	9	9	5	4	6
Terminations	4	6	5	6	9	10



Supreme Court Remanded 3 Cases in 2017

- **Two stipulations from the Hearing Department:**
 - In one case, a new stipulation was resubmitted to Supreme Court; currently pending there.
 - The second case remains pending in the State Bar Court for further settlement conference in February 2018.
- **One default disbarment case remanded from Supreme Court:**
 - State Bar Court submitted a recommendation for discipline; Supreme Court imposed it. Case closed.



Timeline Goal for Contested Cases

Day	Activity
1	Case filed
25	Response due
40	Last day to request discovery
65	Discovery served
65-125	Settlement, pretrial conferences
125	Trial begins
135	Case submitted (i.e. 10-day trial)
225	Decision filed (within 90 days)



Rules to Expedite Cases and Increase Efficiency

- Mutual exchange of discovery
- New evidence standard
- Trials on consecutive days
- Filing decisions/opinions early



Average Pendency of All Cases

- 131 days in 2016
- 110 days in 2017 (year to date as of Nov. 30)



Current Projects Promoting the Goals of Discipline

1. Revising Rules of Practice (like local rules of court)
2. Revising Probation Conditions
3. Early Filing of Opinions, Decisions, and Defaults (before 90-day deadline)
4. Committee Work



The State Bar *of California*

Lawyer Assistance Program

Michelle Harmon, Acting Program Manager



Eligibility for the Lawyer Assistance Program

State Bar Rule 3.244

- Open to active, inactive, former licensed attorneys in California
- Open to students who are in law school or have applied for admission to the State Bar.



Attorneys and Substance Abuse

- 22.6% reported problematic use of alcohol or other drugs at some point in their lives. Of those:
 - 27.6% reported use started before law school
 - 14.2% reported use started during law school
 - 43.7% reported problematic use started within the first 15 years following law school

(From a 2016 study conducted by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs)



Mental Health Concerns

- Self report of mental health concerns over course of legal career:
 - 61.1% reported anxiety
 - 45.7% reported depression
 - 16.1% reported social anxiety



How LAP Intersects with Attorney Discipline

- Mental impairment may affect an attorney's ability to perform professionally and ethically
- Attorneys suffering from mental illness or substance use disorders are more likely to be subject to discipline
- Discipline investigations or proceedings often bring to light mental or emotional problems
 - Depression
 - Anxiety
 - Substance abuse



Examples of Acts or Omissions Leading to Discipline

- Failing to answer phone calls
- Failing to communicate with clients
- Failing to open mail and respond
- Missing court dates, filing dates, deadlines
- Lying, misappropriation of funds, destructive behavior



Orientation and Assessment

- Includes an opportunity to experience participation in LAP without making a longer-term commitment
- Free, confidential mental health assessment by an experienced licensed clinician
- Recommendations for structured program of recovery
- Three week participation in LAP group



2 Types of Offerings

- Support LAP
- Monitored LAP



Participation Plan may include:

- Weekly LAP group
- Abstinence based self-help groups
- Psychological testing
- Individual therapy
- Psychiatric medication management
- Abstinence
- Inpatient/outpatient treatment
- Biological fluid testing
- Education on mental health/substance use disorder



The State Bar *of California*

Office of Probation

Terrie Goldade, Supervising Attorney



- The Office of Probation monitors the following:
 - Orders imposing discipline, i.e. reprobals and probation (Rules of Procedure of the State Bar of California, rule 2701)
 - Rules of Court, rule 9.20 orders in disbarment, resignation, and ongoing conviction matters (Rules of Procedure, rule 5.332)
 - Other Court orders, which may include adherence to Alternative Discipline Program contracts, payment of costs, other interim conditions ordered (Rules of Procedure, rules 5.388(D), 5.255, et seq.; Bus & Prof Code 6007 (h))



New Office of Probation Files Opened by Year

New Files Opened	2013	2014	2015	2016	2017
Probation	209	244	247	208	149
Reproval	60	60	59	51	51
Agreement in Lieu of Discipline	25	55	57	22	0
Rules of Court, Rule 9.20	598	713	714	692	325
Alternative Discipline Program	13	17	11	9	13
Other	5	3	1	1	1
Total Number	910	1092	1089	983	539



Douglas Shoemaker 15-O-14304/S237419

Douglas Shoemaker's stipulation is on his State Bar online attorney profile because his discipline, including his probation, is a public matter.

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Michaela Carpio Deputy Trial Counsel 845 South Figueroa Street Los Angeles, CA 90017 (213) 765-1338 Bar # 304677	Case Number(s): 15-O-14304-DFM	For Court use only <div style="text-align: center; font-weight: bold; font-size: 1.2em;">PUBLIC MATTER</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;">FILED</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;">AUG 04 2016</div> <div style="text-align: center; font-weight: bold; font-size: 0.8em;">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</div>
In Pro Per Respondent Douglas Robert Shoemaker 20058 Ventura Boulevard, #197 Woodland Hills, CA 91364 (818) 636-8816 Bar # 230379	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Douglas Robert Shoemaker Bar # 230379 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **April 26, 2004**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 12 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective July 1, 2015)

1

kwilktag * 211 096 224

Actual Suspension



Douglas Robert Shoemaker 15-O-14304/S237419

- Conditions for this attorney are set forth on pages 4-6 of his stipulation
 - 1 year stayed; 1 year probation; 60 days actual suspension
 - Schedule/hold meeting with Probation Deputy to review conditions
 - Quarterly and final reports
 - Ethics School
 - Multistate Professional Responsibility Examination



- Other common conditions include:
- Restitution, could include CSF reimbursement
 - Certifying that client trust account is maintained to specified criteria
 - Compliance with underlying criminal probation matter
 - Preparation of a Law Office Management Plan
 - Medical Conditions/Lawyer Assistance Program – such as lab testing, attending AA, therapy sessions, etc.
 - MCLE
 - Client Trust Accounting School
 - Supreme Court Rules of Court, Rule 9.20



- Failure to comply with conditions can result in:
 - Referral to Review Department for suspension until proof of MPRE passage
 - New disciplinary matter filed by OCTC
 - Motion to Revoke Probation filed by Office of Probation

PUBLIC MATTER

FILED
OCT 20 2017 P.B.
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 17-PM-04290-CV
DOUGLAS ROBERT SHOEMAKER,)	ORDER GRANTING, IN PART,
A Member of the State Bar, No. 230379.)	MOTION TO REVOKE PROBATION

Introduction¹

In this contested probation revocation proceeding, respondent Douglas Robert Shoemaker (Respondent) is charged with violating certain probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to (1) revoke Respondent's probation; (2) impose upon Respondent the entire period of suspension previously stayed; (3) require Respondent to comply with California Rules of Court, rule 9.20; and (4) involuntarily enroll Respondent as an inactive member of the State Bar pursuant to section 6007, subdivision (d).

The court finds, by a preponderance of the evidence, that Respondent has violated certain probation conditions and hereby grants, in part, the Office of Probation's motion. The court recommends, among other things, that Respondent's probation be revoked; that the previously stayed, one-year suspension be lifted; that Respondent will be suspended from the

¹ Unless otherwise indicated, all statutory references are to the Business and Professions Code. All references to standard(s) or std. are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.





Non-compliance referrals to OCTC	2013	2014	2015	2016	2017
Non-compliance with Reapproval	18	20	10	6	16
Non-compliance with ALD	7	2	4	4	0
Non-compliance with Rule 9.20	46	59	40	49	40
Non-compliance: "O" matters	65	54	43	43	56
Total Number	136	135	97	102	112

Motions to revoke probation filed by Office of Probation in State Bar Court	19	14	12	12	7
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The State Bar *of California*

Client Security Fund

Lori J. Meloch, Program Manager



Purpose of the Client Security Fund

- Created by Business & Professions Code Section 6140.5
- To relieve or mitigate pecuniary losses caused by dishonest conduct of active licensed attorneys
- Any payments are discretionary
 - Subject to regulation and conditions as the Board shall prescribe



Client Security Fund Statistics

- Has reimbursed victims over \$150 million since inception
- Currently has \$6 million per year to reimburse
- CSF needs approximately \$22.5 million to reimburse the pending inventory
- Reimbursed over \$20 million to over 3400 people in the last three years



Creation & Purpose of the Client Security Fund

- Created by Business & Professions Code Section 6140.5
- To relieve or mitigate pecuniary losses caused by dishonest conduct of active members of the State Bar
 - Also Foreign Legal Consultants & MJP attorneys
- Any payments are discretionary
 - Subject to regulation and conditions as the Board shall prescribe



Creation of Client Security Fund Commission

- To administer the Fund the Board established the CSF Commission and the CSF Rules
- 7 members who serve 3 year terms
 - 4 attorney members and 3 non-attorney members
- The Commission has sole and final authority to determine whether to grant an application
 - State Bar must provide Commission with a staff who serve as counsel



How is CSF Funded?

- The Board may increase the annual licensing fee by up to \$40 for active attorneys
- Up to \$10 for inactive attorneys
- The CSF assessment has been \$40 since 1989
 - Except for 2002-2005 when it was reduced to \$35



Applying for Reimbursement from CSF

- Anyone who has lost money due to attorney misconduct can apply to CSF for reimbursement
- A completed and signed CSF reimbursement application must be submitted
- CSF is separate from and independent of the attorney discipline process in OCTC



Governing California Supreme Court Case

- *Saleeby v. State Bar of California* 39 Cal. 3d 547 (1985)
- Applicants not parties to discipline proceedings; are entitled to independent review of their CSF applications.
- Applicants must be given due process including opportunity to be heard and respond to the proposed CSF disposition.
- Must be written findings of fact and conclusions of law upon which review can be made
 - The proper forum for review is by way of writ of mandamus to the Superior Court



Requirements for CSF Reimbursement

- Active California attorney must have received the money or property at issue
- The loss must have been caused by dishonest conduct (i.e. theft)
 - Wrongfully retaining entrusted funds
 - Failure to refund unearned fees when no work was performed
 - Borrowing/investing client money with no intention of repaying or making a real investment



Relationship between CSF and the Discipline System

- To qualify for reimbursement from the Client Security Fund, an individual's attorney must have:
 - Been disbarred (for any conduct) or voluntarily resigned
 - Been disciplined (less than disbarment) on the matter related to the CSF application
 - Died or been adjudicated mentally incompetent
 - Been convicted of a crime related to the applicants' matter or found civilly liable



- Restitution does not have to be ordered by the State Bar Court for CSF to reimburse
 - Reimbursement from the Client Security Fund not limited to and does not require restitution order from State Bar Court
 - Restitution is not ordered on most CSF matters
 - Restitution order most relevant with regard to collection



CSF Counsel & Staff Role

- Conduct legal evaluation and investigation of the applications
- Write the legal decisions including written findings of fact and conclusions of law per *Saleeby*
- Present matters to the Commission and provide legal counsel
- Serve legal documents on the parties & authorize issuance of the CSF reimbursement checks



Application Determination Process

- For clear cases Director can issue “Notice of Intention to Pay” to respondent attorney
- For more complex cases or if objections expected “Tentative Decisions” are presented to Commission for approval
- Parties have 30 days to object to the legal decisions
- If a party objects, Commission reviews and then issues “Final Decision”



CSF Collection & Subrogation Rights

- Business & Professions Code Section 6140.5 gives CSF subrogation rights
- Repayment of CSF reimbursements is a condition of continued practice or reinstatement to practice
- If restitution is ordered, the Bar can obtain an automatic judgment against the respondent attorney
 - For all other matters the Bar must pursue litigation to get a judgment



Comparison to Other States

Jurisdiction	Fund Attorneys	Applications Resolved 2016	Average Per Attorney
California	3	2,332	777.3
CT	1	89	89
DC	1	28	28
FL	1	236	236
IL	1	278	278
MA	2	50	25
MI	1	115	115
NJ	4	912	228
NY	2	579	289.5
OH	1	188	188
PA	1	200	200
TX	1	171	171
Mean Per Attorney w/ California			272.5
Mean Per Attorney w/o California			177.9
Mean Per Attorney - California only			777.3

Most US funds are not required to provide the strict due process protections mandated in California by the Supreme Court.